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Office Supreme Court U. S.
FILED
OCT 3 1903
JAMES H. McKENNEY,
Clerk.

IN THE

SUPREME COURT OF THE UNITED STATES,

OCTOBER TERM, 1903,

No. 43.

GEORGE C. THOMAS,
Plaintiff in Error,

AGAINST

THE UNITED STATES.

Motion to Re-assign.

Now comes the plaintiff in error and respectfully moves this court to continue the argument in this cause and re-assign it for hearing upon such day as the case of Chesebrough *v.* The United States, is set for hearing.

The plaintiff in error was indicted by the Grand Jury of the United States Circuit Court for the Southern District of New York, being charged with the crime of violating the Internal Revenue Laws of the United States in that on or about the 15th day of May, 1901, having sold one hundred shares of Atchison Preferred Stock, at the time of such sale he delivered to the vendor a memorandum of sale, and that with intent to evade the provisions of Section 25, schedule "A" of an "Act to Provide Ways and Means to Meet War Expenditures, and for Other Purposes," approved June 13, 1898, he failed to affix thereto the proper stamps to denote the amount of the tax due the Government under the provisions of such Act. The plaintiff in error demurred

to the indictment upon the ground that the facts alleged in said indictment did not constitute an infringement of or a crime against the laws of the United States, for the reason that the portions of the Act of Congress entitled an "Act to Provide Ways and Means to Meet War Expenditures, and for Other Purposes," upon which the said indictment was based, are unconstitutional and void, because they are in violation of the Constitution of the United States, and more particularly of Article I, Section 2, subdivision 3, and Article I, Section 9, subdivision 4 thereof. Such demurrer was overruled, and the defendant was put on trial, tried, convicted and sentenced. From such conviction a writ of error was allowed to this court.

That upon motion of the attorneys for the plaintiff in error, this cause was continued from April to the October Term, 1903, so that it might be heard at the same time as the case of Chesebrough *v.* The United States, No. 152, October Term, 1903.

We are informed that a motion is made for a continuance of the hearing in the case of Chesebrough *v.* The United States, and a re-assignment of said cause for hearing, upon some day subsequent to November 1st, 1903, and the Honorable Attorney-General has expressed his willingness to concur in such motion.

For the reasons above set forth, and for the reason that the questions involved herein are of like import to the questions involved in the case of Chesebrough *v.* The United States, the plaintiff in error respectfully moves the court to continue this cause and assign it for hearing upon the same day as Chesebrough *v.* The United States.

Dated, September 23d, 1903.

Respectfully submitted,

PAVEY & MOORE,
Attorneys for Plaintiff in Error.

FRANK D. PAVEY,
Counsel.